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BADRUL ZAMAN PS MD ZAKARIAH

v.

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**JABATAN PENYIARAN RADIO DAN TELEVISYEN
MALAYSIA & ORS AND OTHER CASES**

HIGH COURT MALAYA, KUALA LUMPUR
ABDUL WAHAB PATAIL J

C

[CIVIL SUITS NOS: S1-21-01-2001, S1-21-20-2001, S1-21-21-
2001, S1-21-22-2001, S1-21-23-2001, S1-21-24-2001, S1-21-
25-2001, S1-21-26-2001, S1-21-27-2001 & S1-21-70-2000]
28 JUNE 2007

D

TORT: Defamation - Press conference, news report and video clip -
Subject matter of - Whether words used referred to plaintiff - Whether
there was evidence provided that information given was linked to plaintiff
- Whether action by plaintiff could not be sustained and should be
dismissed

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TORT: Defamation - Press conference, news report and video clip -
News report accompanied by edited photo of plaintiff with eyes shaded -
Whether identifiable by ordinary reader - Whether damage to the plaintiff
arose - Whether words used defamatory of plaintiff

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TORT: Defamation - Printing of article - Whether article linked to
plaintiff - Whether printing of article in ordinary course of business -
Whether actuated by malice - Failure to establish case by plaintiff

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TORT: Defamation - Press conference, news report and video clip -
Faithful reporting - Whether could be defamatory - Whether reports made
untrue and incorrect - Whether claim sustained

H

CONSTITUTIONAL LAW: Attorney General - Authority -
Distinction between authority to institute, conduct or discontinue
proceedings for criminal offences and speaking out about criminal offences
and activities - Whether Deputy Director General of Immigration has
right to hold press conference to inform public offences affecting department
- Federal Constitution, art 145(3) - Whether applicable

I

These cases have been commenced by the plaintiff in relation to
a press conference given by the second defendant Datuk Aseh
Che Mat (Datuk Aseh) then the Deputy Director-General of
Immigration in the Government of Malaysia (the third defendant)
on the morning of 24 February 1998 at the Department's
Headquarters, report of which press conference was carried, it

was alleged, by Jabatan Penyiaran Radio Dan Televisyen Malaysia on RTM1, RTM2 and Sistem Televisyen Malaysia Berhad (TV3) in the evening news, the newspapers of the first defendants in their respective articles the next day. Briefly, on 23 February 1998, a raid was conducted by the Enforcement Division of the Immigration Department on the premises of Agensi Pekerjaan dan Levi Al-Zaman Sdn Bhd. The plaintiff, who was the Managing Director of the company, was arrested on suspicion of committing an offence under s. 12(1) of the Passports Act 1966. While reporting the press conference by the Deputy Director-General of Immigration, TV3 aired a news clip of the plaintiff. Subsequently the plaintiff was charged, tried and acquitted. The substance of the submissions presented for the plaintiff: (i) although the plaintiff was not expressly named, the words were considered to refer to the plaintiff; (ii) the plaintiff was shown on the television network a day before publication in all the newspapers; (iii) the plaintiff was also referred to as an ISA detainee and the plaintiff's business address was made known; (iv) in some of the articles, the plaintiff's photograph was carried prominently except eyes were shaded; (v) Datuk Aseh could not hold such a press conference because there were allegations of criminal conduct on the part of the plaintiff mentioned and that art. 145(3) of the Federal Constitution states that only the Attorney General has the power to institute conduct or discontinue any proceedings for an offence; (vi) Datuk Aseh took it upon himself to defame the plaintiff and stepped on to the jurisdiction of the Attorney General to defame the plaintiff; (vii) Datuk Aseh held a press conference to expose the plaintiff and had made damaging remarks by exposing and displaying exhibits relevant to criminal proceedings.

Held (dismissing plaintiff's actions against the defendants):

- (1) Jabatan Penyiaran Radio dan Televisyen Malaysia had denied that it had aired the said press conference at all. There was no evidence adduced, whether by way of a recording or transcription put before the court of the press conference aired on RTM1 or RTM2. The plaintiff's case against them therefore could not be sustained and was therefore dismissed. No liability could accrue upon Datuk Aseh and Kerajaan Malaysia arising from this part of the claim. In respect of Sistem Televisyen Malaysia Berhad (TV3), it was plain from the transcription as at para. 6 of the amended statement of claim that Datuk Aseh did not mention the name of the plaintiff or

- A his employment agency. In view of the fact that Datuk Aseh could not have known what visual TV3 would show, he could not therefore be held responsible and liable for the video clip that was aired by TV3. There was no evidence that Datuk Aseh provided the information to link the plaintiff or his
- B employment agency, Agensi Pekerjaan dan Levi Al Azman Sdn Bhd to the subject matter of the press conference. In the circumstances, the action of the plaintiff against Datuk Aseh and his employer, Kerajaan Malaysia, arising from publication by TV3 could not be sustained and must be dismissed.
- C (paras 8 & 10)
- (2) The Utusan news report, unlike in the case of TV3, was accompanied only by an edited photograph where his eyes were shaded. No evidence was tendered to show that readers of Utusan Melayu (M) Bhd in fact did or would identify the
- D news report or the edited photograph with the plaintiff. The photograph was only identifiable with the plaintiff to someone who already knows him, but not one who does not. But that would be a limited group who would already know from their
- E own knowledge of the plaintiff and not from newspaper reports. The ordinary reader who does not know him in the first place, would not be able to identify him from the edited photograph, and thus no damage to the plaintiff could be said to arise from the Utusan news report. The material for the
- F reports by both Utusan and TV3 came from the same press conference, and each went back to publish their reports. Without evidence, or indeed any assertion, of collusion on the part of Utusan with TV3 to do so, TV3 clearly acted on its own to air the video clip. Utusan could not be held
- G responsible for the airing by TV3 of the video clip that identified the plaintiff. Without foreknowledge on its part of the video clip, the Utusan news report of the press conference must be considered on its own. The court found that while the words in the Utusan news report on their own were
- H capable of being defamatory, they were not defamatory of the plaintiff as the news report, with the edited photograph, did not identify the plaintiff. (paras 15, 16, 18, 19 & 20)
- (3) Star Papyrus Printing Sdn Bhd printed the newspaper for Star
- I Publications (M) Bhd. There was nothing to link the Star Publications (M) Bhd article to the plaintiff so as to be said to be defamatory of the plaintiff. There was no basis to hold

Star Papyrus Printing Sdn Bhd liable. There was no evidence that Star Papyrus Printing Sdn Bhd had printed the article other than in the ordinary course of its business. There was thus no evidence that it as a printer was actuated by malice. In the circumstances, the court found that the plaintiff failed to establish any case against Star Papyrus Printing Sdn Bhd. (para 23)

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- (4) Although the said art. 145(3) of the Federal Constitution gives the Attorney General sole authority exercisable at his discretion, to institute, conduct or discontinue any proceedings for an offence, it does not forbid any person, official or private, to speak out about criminal offences. There is a distinction between the authority to institute, conduct or discontinue proceedings for criminal offences and speaking out about criminal offences and activities or, for that matter, investigations of criminal offences and activities. Datuk Aseh in his position in his department had every right, subject to departmental guidelines if any, to hold a press conference to inform the public what action was being done to investigate and to take to prosecution offences relating to offences affecting the work of his department. The public has a right to know and the public demands to know criminal offences and activities, and public officials must respond to the public's interest in what was going on, concern when things are not going right and demands to put things right. Therefore, the plaintiff's argument held no merit. (para 26)

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- (5) Newspapers, radio and television stations must be protected so long as they report reasonably accurately the actual event, which herein was the press conference by Datuk Aseh. Datuk Aseh at the time was circumspect enough to identify the plaintiff and the matter was being investigated and taken to court. Faithful reporting of the news of it, as a matter being investigated and taken to court as well as press conference could not be defamatory, for if in fact Datuk Aseh defamed the plaintiff, the work of the defendants as newspapers, radio and television stations, reporting faithfully were valuable sources of evidence rather than to be taken to task as defendants. A true and correct account by a reporter of a defamation by a defamer makes the reporter not a defamer but a witness whose account is valuable evidence. Even though by

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- A airing the video clip of the plaintiff TV3 associated him with the press conference, there was nothing in the video clip and news report by TV3 that was untrue and incorrect of those events, being the press conference and the event in the video clip. The claim against TV3, therefore, could not be sustained.
- B (para 29)

Case(s) referred to:

Le Mercier's Fine Furnishings Pte Ltd & Anor v. Italcomm (Malaysia) Sdn Bhd [1996] 3 CLJ 590 HC (refd)

C Legislation referred to:

Federal Constitution, art. 145(3)
Passports Act 1966, s. 12(1)

For the plaintiff - M Manoharan (Sri Dewi with him); M/s M Manoharan & Co

D

(Civil Suit No: S1-21-01-2001)

For the 1st, 2nd & 3rd defendants - Amarjeet Singh (Chandra Devi with him) SFCs

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(Civil Suits Nos: S1-21-20-2001, S1-21-21-2001, S1-21-2-2001, S1-22-23-2001, S1-21-24-2001, S1-21-26-2001 & S1-21-27-2001)

For the 2nd & 3rd defendants - Amarjeet Singh (Chandra Devi with him) SFCs

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(Civil Suit No: S1-21-25-2001)

For the 3rd & 4rd defendants - Amarjeet Singh (Chandra Devi with him) SFCs

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(Civil Suit No: S1-21-70-2000)

For the 1st & 2nd defendants - Amarjeet Singh (Chandra Devi with him) SFCs

(Civil Suits Nos: S1-21-01-2001 & S1-21-23-2001)

For the 4th defendants - SY Hoh (KS Tan with him); M/s TH Liew & Partners

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(Civil Suit No: S1-21-24-2001)

For the 1st defendants - SY Hoh (KS Tan with him); M/s TH Liew & Partners

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(Civil Suit No: S1-21-20-2001)

For the 1st defendants - Mohana Kumar (Rohanida Shafie with him); M/s Shafie & Mohan

(Civil Suit No: S1-21-70-2000)

For the 3rd defendants - Mohana Kumar (Rohanida Shafie with him); M/s Shafie & Mohan

(Civil Suits Nos: S1-21-21-2001 & S1-21-22-2001) **A**
*For the 1st defendants - MK Yee (K Kavitha with him); M/s Shearn
Delamore & Co*

(Civil Suit No: S1-21-23-2001)
*For the 1st defendants - Faizal Mohideen (T Sudhar with him); M/s Shook
Lin & Bok* **B**

(Civil Suit No: S1-21-25-2001)
For the 1st & 2nd defendants - Bhag Singh; M/s Bhag Sulaiman & Co

(Civil Suit No: S1-21-26-2001)
For the 1st defendants - CH Yeoh; M/s CH Yeoh & Yiew **C**

(Civil Suit No: S1-21-27-2001)
For the 1st defendant - K Saraswathy; M/s S Kandasami & Co

Reported by Suhainah Wahiduddin **D**

JUDGMENT

Abdul Wahab Patail J: **E**

[1] These cases have been commenced by the plaintiff Badrul Zaman bin P.S. Md Zakariah in relation to a press conference given by Datuk Aseh Che Mat, the second defendant (Datuk Aseh), then Deputy Director-General of Immigration in the Government of Malaysia, the third defendant, on the morning of 24 February 1998 at the Department's Headquarters, report of which press conference was carried, it was alleged, by Jabatan Penyiaran Radio Dan Televisyen Malaysia on RTM1 and RTM2, Sistem Televisyen Malaysia Berhad (TV3) in the evening news, the newspapers of the first defendants in their respective articles the next day. Star Papyrus Printing Sdn Bhd, the second defendant in S1-21-25-2001, is the printer of the Star Publications (M) Bhd, the first defendant therein. **F**
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Brief Background **H**

[2] On 23 February 1998, a raid was conducted by the Enforcement Division of the Immigration Department on the premises of Agensi Pekerjaan dan Levi Al-Zaman Sdn Bhd, Jalan Pahang, Kuala Lumpur. The plaintiff, who is the managing director of the company, was arrested on suspicion of committing an offence under s. 12(1) of the Passports Act 1966 (Act 150). **I**

- A Three foreigners on the premises were also arrested under the Immigration Act 1959/1963 (Act 155). Also seized in the operation that lasted about five hours were 41 rubber-stamps of various companies, eight register books listing workers from India, 196 bio-data of workers seeking employment in Malaysia and various other documents.
- B

[3] Amongst the defendants, TV3 aired a news-clip of the plaintiff while reporting the press conference by the Deputy Director-General of Immigration. There is no evidence adduced of what was aired by RTM1 or RTM2. The newspapers, in reporting the press conference made no reference to the plaintiff.

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[4] Subsequently, the plaintiff was charged and tried in court. He was acquitted. The Public Prosecutor appealed but later withdrew the appeal.

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The Law

[5] Defamation is comprised of a number of elements. Generally, disputes can arise as to whether:

- E
- a. The statement is defamatory in nature;
 - b. The defendant published the statement; and
 - c. The statement referred to the plaintiff so as to be defamatory of the plaintiff.
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[6] If defamation is made out by the plaintiff against a defendant, then only it becomes necessary to consider the defences raised by that defendant and the plaintiff's reply to the defence such as malice to negate the defence. If so, the question is whether there is evidence adduced as to prove the existence of express malice.

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Submissions For The Plaintiff

- H [7] The substance of the submissions presented for the plaintiff may be summarised as follow:
- a. Although the plaintiff is not expressly named, the words are considered to refer to the plaintiff.
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- b. The plaintiff was shown on the television network such as TV3 and RTM, a day before publication in all the newspapers.

- c. The plaintiff was also referred to as an ex-ISA detainee. A
- d. The plaintiff's business address was made known.
- e. The plaintiff's nature of business was also made known.
- f. In some of the articles, the plaintiff's photograph was carried prominently except eyes were shaded. B
- g. Datuk Aseh and the Government of Malaysia had no right whatsoever to hold the press-conference and the other defendants to publish the same. C
- h. Datuk Aseh cannot hold such a press conference because the allegations of criminal conduct on the part of the plaintiff was mentioned.
- i. Article 145(3) of the Federal Constitution, the supreme law of the country, states that only the Attorney General has the power, exercisable at his discretion, to institute, conduct or discontinue any proceedings for an offence. D
- j. Datuk Aseh took it upon himself to defame the plaintiff and stepped on to the jurisdiction of the attorney general to defame the plaintiff. E
- k. Datuk Aseh and his group raided the plaintiff's premises and arrested the plaintiff and three others. Datuk Aseh should have stopped there but he went a step further in exposing the plaintiff to the press. F
- l. Datuk Aseh held a press conference to expose the plaintiff. Datuk Aseh told about the plaintiff's arrest. Datuk Aseh also related the remand obtained against the plaintiff. G
- m. Datuk Aseh made damaging remarks by exposing and displaying exhibits relevant to criminal proceedings. All the items seized became magistrates court exhibits in the criminal trial against the plaintiff. H
- n. Datuk Aseh has stepped on to the very jurisdiction of the attorney general. Fortunately, the plaintiff was acquitted and discharged without defence called.
- o. The charge framed against the plaintiff has got nothing to do with the criminal allegation as exposed by Datuk Aseh in his press conference as published by the other defendants. I

- A p. Datuk Aseh also did not volunteer nor was called as a witness in the plaintiff's criminal trial at the magistrates court.

Findings S1-21-01-2001

- B [8] Jabatan Penyiaran Radio dan Televisyen Malaysia had expressly denied that it had aired the said press conference at all. There is no evidence adduced, whether by way of a recording or transcription put before the court of the press conference aired on RTM1 or RTM2. The plaintiff's case against Jabatan Penyiaran Radio dan Televisyen Malaysia, therefore, cannot be sustained and is therefore dismissed with costs. No liability could accrue upon
- C Datuk Aseh and Kerajaan Malaysia arising from this part of the claim.

- D [9] It is agreed by the parties that in respect of Sistem Televisyen Malaysia Berhad (TV3), the story it had carried in its news segment is as transcribed in para. 6 of the amended statement of claim. The issues are whether a visual of the plaintiff (the video clip) accompanied the news item and whether the news item itself referred to or is capable of referring to the plaintiff. The court
- E finds that it is plain from the transcription as at para. 6 of the amended statement of claim that Datuk Aseh did not mention the name of the plaintiff Badrul Zaman bin P.S. Md Zakariah or his employment agency, Agensi Pekerjaan dan Levi Al-Zaman Sdn. Bhd.

- F [10] In view of the fact the plaintiff had also agreed in case management that Datuk Aseh could not have known what visual TV3 would show, he cannot therefore be held responsible and liable for the video clip that was aired by TV3. There is no
- G evidence that Datuk Aseh provided the information to link the plaintiff Badrul Zaman bin P.S. Md Zakariah or his employment agency, Agensi Pekerjaan dan Levi al-Zaman Sdn Bhd to the subject matter of the press conference. Publication by Datuk Aseh of the identities of Badrul Zaman bin P.S. Md Zakariah or Agensi
- H Pekerjaan dan Levi Al-Zaman Sdn Bhd to the press conference is, therefore, not proved. In the circumstances, the action of the plaintiff Badrul Zaman bin P.S. Md Zakariah against Datuk Aseh and his employer, Kerajaan Malaysia, arising from publication by TV3 cannot be sustained and must be dismissed with cost.

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[11] The testimony of Datuk Aseh (DW2) is corroborated by that of Md Aris bin Chonin (DW1) that the press conference took place at the Immigration Headquarters at Damansara while the plaintiff was taken to the magistrate's court for a remand application under s. 117 Criminal Procedure Code. DW1 testified that the press conference was over when he saw the plaintiff being brought back from the magistrate's court. The DW2 and DW1 were not cross-examined on this part of their testimony. The court concludes that the plaintiff accepted this part of the testimony of DW1 and DW2. The submission of the matter being *sub judice* must fail.

[12] Nevertheless, since the video-clip of the arrest of the plaintiff was played by TV3 while its news report of the press conference was read, it is clear any person watching the news broadcast would associate the words as referring to the plaintiff.

Findings S1-21-20-2001

[13] Learned counsel for the plaintiff had conceded, in the course of the case management, that the facts pleaded in the statement of defence filed by the defendants are not disputed. It was conceded by Utusan Melayu (M) Bhd (Utusan) that the words complained of, in their natural ordinary meaning were capable of bearing a defamatory meaning but only if they were of and concerning the plaintiff.

[14] Reviewing the statement of defence, the court accepts that the plaintiffs concession that the facts pleaded in the statement of defence are not disputed leads to the conclusion that the facts as was reported by the words in the news report are not untrue. If the news report on the plaintiff were not untrue, it cannot be defamatory even though the words themselves were capable of a defamatory meaning. It is not necessary, therefore, to deal with the defences of qualified privilege and fair comment and the associated issue of express malice even though these were raised.

[15] Even if the words in the Utusan news report were held to be capable of a defamatory meaning, the Utusan news report, unlike in the case of TV3, was accompanied only by an edited photograph where his eyes were shaded. The edited photograph does not, in my view, identify the plaintiff. The plaintiff with his personal familiarity may have no difficulty to associate the edited photograph with himself, but that is not the measure of identification. The measure is whether a reader of Utusan would

A make, from the edited photograph, the association and
identification of the edited photograph and the Utusan news
report with the plaintiff.

B [16] No evidence was tendered to show that readers of Utusan
Melayu (M) Bhd in fact did or would identify the news report or
the edited photograph with the plaintiff. Even though the court
saw the edited photograph, the court could not recognise the
plaintiff when he was in court. Only when he stood up upon
being asked to if he was in court, did the court see the
C resemblance with the edited photograph. The point the court
came to realise was that the photograph is only identifiable with
the plaintiff to someone who already knows him, but not one who
does not. But that would be a limited group who would already
know from their own knowledge of the plaintiff and not from
D newspaper reports. Indeed, if the newspaper reports were wrong
and therefore defamed him, they would know the news report
were wrong and no damage could arise from this limited group of
persons. But the ordinary reader, who does not know him in the
first place, would not be able to identify him from the edited
E photograph, and thus no damage to the plaintiff could be said to
arise from the Utusan news report.

F [17] The plaintiff also relied upon *Le Mercier's Fine Furnishings Pte*
Ltd & Anor v. Italcomm (Malaysia) Sdn. Bhd. [1996] 3 CLJ 590
where Dato' James Foong J (as he then was) held that although
the plaintiffs were not expressly named, the words may still be
considered to refer to the plaintiffs if the ordinary sensible readers
with knowledge of special facts could and did understand them to
refer to the plaintiffs. For this, there must be some extrinsic facts
G so known to some readers who knew the plaintiffs, such that,
these readers would understand that it was the plaintiffs that were
being referred to. The test is that of a reasonable man. In *Le*
Mercier's Fine Furnishing Pte Ltd & Anor the special facts required
relate to that of the plaintiffs being the only other retailer engaged
H in this special class of trade, and the alleged defamatory statement
would be sufficient to entitle a reasonable man with this special
knowledge to interpret the words to mean that the plaintiffs were
dishonest and/or dealing in fake and/or imitation items of Italian
furniture purportedly as genuine, and they did in fact cheat their
I clients.

[18] The extrinsic facts relied upon were that the plaintiff was shown on the television network such as TV3 a day before publication in all the newspapers; the plaintiff was also referred to as an ex-ISA detainee; and the plaintiff's business address and nature of business was also made known.

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[19] Accepting that the video clip aired in the TV3 news report would cause a person watching the TV3 news report to associate the report with the plaintiff, it is plain that the person reading the news report in Utusan, and familiar with the TV3 news report would identify the Utusan news report with the plaintiff. The material for the reports by both Utusan and TV3 came from the same press conference, and each went back to publish their reports. Without evidence, or indeed any assertion, of collusion on the part of Utusan with TV3 to do so, TV3 clearly acted on its own to air the video clip. Utusan cannot be held responsible for the airing by TV3 of the video clip that identified the plaintiff. Without foreknowledge on its part of the video-clip, the Utusan news report of the press conference must be considered on its own.

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[20] The court finds that while the words in the Utusan news report on their own were capable of being defamatory, they are not defamatory of the plaintiff as the news report, with the edited photograph, did not identify the plaintiff.

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S1-21-21-2001; S1-21-22-2001; S1-21-23-2001; S1-21-24-2001; S1-21-25-2001; S1-21-26-2001 and S1-21-27-2001

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[21] These cases similarly involve similar newspaper reports. The newspaper articles by the defendants in some cases with an edited photograph, in these actions made other reference to the plaintiff. The language of their newspaper article, standing alone, did not link the press conference to the plaintiff.

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[22] The same conclusions follow as in S1-21-20-2001, that even if the words in the respective news report on their own were capable of carrying a defamatory meaning, they are not defamatory of the plaintiff as they did not identify the plaintiff.

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The Printer

[23] In S1-21-25-2001, Star Papyrus Printing Sdn Bhd printed the newspaper for Star Publications (M) Bhd. The findings above that there is nothing to link the Star Publications (M) Bhd article to the plaintiff so as to be said to be defamatory of the plaintiff

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- A means that there is no basis to hold Star Papyrus Printing Sdn Bhd liable. Even assuming the article is defamatory of the plaintiff, there is no evidence that Star Papyrus Printing Sdn Bhd had printed the article other than in the ordinary course of its business. There is thus no evidence that it as a printer was actuated by
- B malice. In the circumstances, the court finds that the plaintiff failed to establish any case against Star Papyrus Printing Sdn Bhd.

Other Issues

- C [24] It was argued for the plaintiff that Datuk Aseh and the Government of Malaysia had no right to hold the press conference because there were allegations of criminal conduct, a matter within the sole jurisdiction of the Attorney General under art. 145(3) of the Federal Constitution.

- D [25] Article 145(3) of the Federal Constitution of Malaysia provides:

- (3) The Attorney General shall have power, exercisable at his discretion, to institute, conduct or discontinue any proceedings for an offence, other than proceedings before a
- E syariah court, a native court or a court-martial.

- [26] Although the said article gives the attorney general sole authority exercisable at his discretion, to institute, conduct or discontinue any proceedings for an offence, it does not forbid any
- F person, official or private, to speak out about criminal offences. There is a distinction between the authority to institute, conduct or discontinue proceedings for criminal offences and speaking out about criminal offences and activities or, for that matter, investigations of criminal offences and activities. Datuk Aseh in his
- G position in his department had every right, subject to departmental guidelines if any, to hold a press conference to inform the public what action was being done to investigate and to take to prosecution offences relating to offences affecting the work of his department. The public has a right to know and the public
- H demands to know criminal offences and activities, and public officials must respond to the public's interest in what is going on, concern when things are not going right and demands to put things right. I, therefore, find the plaintiff's argument to hold no merit.

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[27] Unlike in Utusan and the other defendants' newspaper, on whose behalf it was argued that while the words in the report of the press conference was capable of being defamatory but were not in fact defamatory of the plaintiff for the reason the reports did not identify the plaintiff, it is necessary, in the case of TV3 to consider whether the words were defamatory since TV3, through the video clip did identify the plaintiff.

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[28] Considering the evidence as a whole it is plain that it was true it was the plaintiff's office that was visited and investigated and the plaintiff was the person arrested, in relation to work entry permits irregularities. The video-clip of the plaintiff was not a fake. The plaintiff produced a transcript of the TV3 broadcast. It was not alleged that the report of TV3 was not a true account of the press conference. Indeed, there is a consistency evident in the reports by the various defendants as would suggest they made an acceptably accurate account of the press conference.

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[29] Newspapers, radio and television stations must be protected so long as they report reasonably accurately the actual event, which in this case is the press conference by Datuk Aseh. Datuk Aseh at the time was circumspect enough to identify the plaintiff and the matter was being investigated and taken to court. Faithful reporting of the news of it, as a matter being investigated and taken to court as well as press conference cannot be defamatory, for in fact Datuk Aseh defamed the plaintiff, the work of the defendants as newspaper, radio and television stations, reporting faithfully are valuable sources of evidence rather than to be taken to task as defendants. A true and correct account by a reporter of a defamation by a defamer makes the reporter not a defamer but a witness whose account is valuable evidence. In my opinion, even though by airing the video clip of the plaintiff TV3 associated him with the press conference, there is nothing in the video clip and the news report by TV3 that is untrue and incorrect of those events, being the press conference and the event in the video clip. The claim against TV3, therefore, cannot be sustained.

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Order

[30] In light of the above findings, the plaintiff's actions against the defendants in all these cases were dismissed with costs.

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